

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

HERVE GUERRIER,  
#1036378

Plaintiff,

vs.

ROBERT LEGRAND, *et al.*,

Defendants.

3:10-cv-00752-LRH-RAM

**ORDER**

Plaintiff has submitted a *pro se* civil rights complaint. Plaintiff's application to proceed *in forma pauperis* is granted (docket #6). Based on the information regarding plaintiff's financial status in the application to proceed *in forma pauperis*, plaintiff is required to pay an initial installment of the filing fee pursuant to 28 U.S.C. §1915.

The grant of *in forma pauperis* status adjusts the amount of the filing fee that plaintiff must *prepay* -- plaintiff will be required to prepay an initial installment of \$32.29, if plaintiff's institutional account has a sufficient balance, instead of having to prepay the full \$350 filing fee for this action. The entire \$350 filing fee will, however, remain due from plaintiff, and the institution where plaintiff is incarcerated will collect money toward the payment of the full filing fee when plaintiff's

1 institutional account has a sufficient balance, pursuant to 28 U.S.C. §1915. Further, the entire \$350  
2 filing fee will remain due and payable, and will be collected from plaintiff's institutional account,  
3 regardless of the outcome of this action.

4 On December 21, 2010 plaintiff filed a motion to amend his complaint (docket #3).  
5 Plaintiff's motion is granted. Plaintiff's motion indicates the changes that plaintiff seeks to make to his  
6 complaint. However, this is insufficient to amend his complaint; plaintiff must file a new amended  
7 complaint that sets forth all claims against all defendants that he wishes to pursue in this action. Plaintiff  
8 shall file his amended complaint within thirty (30) days of the date of entry of this order. Again, plaintiff  
9 is informed that the court cannot refer to a prior pleading in order to make plaintiff's amended complaint  
10 complete and that Local Rule 15-1 requires that an amended complaint be complete in itself without  
11 reference to any prior pleading. This is because, as a general rule, an amended complaint supersedes the  
12 original complaint. *See Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended  
13 complaint, the original pleading no longer serves any function in the case. Therefore, in an amended  
14 complaint, as in an original complaint, each claim and the involvement of each defendant must be  
15 sufficiently alleged.

16 **IT IS THEREFORE ORDERED** that plaintiff's application to proceed *in forma*  
17 *pauperis* (docket #6) is **GRANTED**. Plaintiff Herve Guerrier, **Inmate No. 1036378**, will be permitted  
18 to maintain this action to conclusion without prepayment of the full filing fee. However, plaintiff must  
19 pay an initial installment of the filing fee in the amount of **\$32.29**. Plaintiff will not be required to pay  
20 fees or costs, other than the filing fee, or give security therefor. This Order granting *in forma pauperis*  
21 status shall not extend to the issuance and service of subpoenas at government expense.

22 **IT IS FURTHER ORDERED** that, even if this action is dismissed, or is otherwise  
23 unsuccessful, the full filing fee shall still be due, pursuant to 28 U.S.C. §1915, as amended by the  
24 Prisoner Litigation Reform Act of 1996.

25 **IT IS FURTHER ORDERED** that if plaintiff's account has sufficient funds, he shall  
26 have **thirty (30) days** from the date of entry of this order to have the initial installment of the filing fee,

1 in the amount stated above, sent to the Clerk in the manner described below. Failure to do so may result  
2 in the immediate dismissal of this action.

3 **IT IS FURTHER ORDERED** that the Clerk shall **SEND** plaintiff two copies of this  
4 Order. Plaintiff must make the necessary arrangements to have one copy of this Order, attached to a  
5 check in the amount of the initial installment of the filing fee, sent to the Court, by sending a copy of the  
6 Order with a “brass slip” to Inmate Services for issuance of the check.

7 **IT IS FURTHER ORDERED** that, pursuant to 28 U.S.C. §1915, as amended by the  
8 Prisoner Litigation Reform Act of 1996, the Nevada Department of Corrections shall pay the Clerk of  
9 the United States District Court, District of Nevada, 20% of the preceding month’s deposits to plaintiff’s  
10 account (in months that the account exceeds \$10.00), until the full \$350 filing fee has been paid for this  
11 action. **The Clerk shall send a copy of this order to Albert G. Peralta, Chief of Inmate Services,**  
12 **Nevada Department of Prisons, P.O. Box 7011, Carson City, NV 89702.**

13 **IT IS FURTHER ORDERED** that plaintiff’s motion to amend complaint (docket #3)  
14 is **GRANTED**.

15 **IT IS FURTHER ORDERED** that the Clerk **SHALL SEND** to plaintiff the approved  
16 forms for filing a civil rights lawsuit under 42 U.S.C. §1983.

17 **IT IS FURTHER ORDERED** that if plaintiff shall clearly title any amended complaint  
18 as such by placing the words “FIRST AMENDED” immediately above “Civil Rights Complaint  
19 Pursuant to 42 U.S.C. § 1983” on page 1 in the caption, and plaintiff shall place the case number, **3:10-**  
20 **CV-00752-LRH-RAM**, above the words “FIRST AMENDED” in the space for “Case No.”

1                   **IT IS FURTHER ORDERED** that if plaintiff chooses to file an amended complaint,  
2 he shall file it within **thirty (30) days** from the date that this Order is entered. The amended complaint  
3 must be a complete document in and of itself, and will supersede the original complaint in its entirety.  
4 Any allegations, parties, or requests for relief from prior papers that are not carried forward in the  
5 amended complaint will no longer be before the court.

6                   DATED: March 3, 2011.

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UNITED STATES MAGISTRATE JUDGE